

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA

v.

JOHN BELTRAN, SR.,

Defendant.

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§

Criminal No.

SA-09-CR-368(2) XR

ORDER DENYING MOTION TO RECONSIDER

The matter before the court is defendant's motion to reconsider the order detaining him pending trial (docket #46). Both the government and Pretrial Services have communicated their opposition to the motion.

In support of the motion defendant argues that his assistance in the voluntary surrender of his son (and co-defendant) to authorities should have been taken into account, as well as the fact that while he has an extensive arrest history, he has no convictions. He also argues that he would not have the ability to participate in illegal activity with his sons if released in that two of his sons are in custody and the other is gainfully employed.

Although there is no explicit authority for the court's reconsideration of an order of detention, 18 U.S.C. Sec. 3142(f) states that a hearing may be reopened "if the judicial officer finds that information exists what was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community."

After carefully reviewing my Order of May 21, 2009 (docket #24) and the reasons compelling detention I decline to reconsider that Order or reopen the hearing. The danger presented by

defendant's release is significant. The fact that defendant may have assisted in his son's surrender to law enforcement does not mitigate against that finding. The May 21 Order reflects that I was mindful of and considered the fact that defendant had no prior convictions. Finally, while defendant's sons and codefendants may no longer be available to participate with defendant in drug or illegal activities, the May 21 Order details other evidence presented at the detention hearing that implicate danger to law enforcement and witnesses were defendant released.

For these reasons, the motion to reconsider is ORDERED DENIED.

SIGNED on February 16, 2010.

A handwritten signature in cursive script, reading "Nancy Stein Nowak", is written over a horizontal line.

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE